

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:)	Case No. 17-22572-GLT
)	
CIRCULATORY CENTERS OF)	Chapter 11
PENNSYLVANIA, INC.,)	
Debtor)	
)	Docket No. _____
BALDWIN GARDENS, INC.,)	
Movant)	
)	
vs.)	
)	
CIRCULATORY CENTERS OF)	
PENNSYLVANIA, INC.,)	Date and Time of Hearing:
Respondents)	January 4, 2018 at 10:30 a.m.

**MOTION TO COMPEL PAYMENT OF POST-PETITION RENT AND RELATED
LEASE OBLIGATIONS PURSUANT TO 11 U.S.C. § 365(d)(3) AND 11 U.S.C. § 503(b)**

AND NOW, this 6th day of December, 2017, comes Baldwin Gardens, Inc., 2540 Village Common Drive, Erie, PA 16506, by and through its counsel, Knox McLaughlin Gornall & Sennett, P.C., 120 West 10th Street, Erie, Pennsylvania 16501, Attention: Guy C. Fustine, Esquire, with this Motion to Compel Payment of Post-Petition Rent and Related Lease Obligations Pursuant to 11 U.S.C. § 365(d)(3) and 11 U.S.C. § 503(b), as follows:

1. On August 31, 2015, Baldwin Gardens, Inc. ("Movant") entered into a seven (7) year lease with the Debtor ("Lease") for the premises located at 2057 West 8th Street, Erie, Pennsylvania ("Premises"). A copy of the Lease is attached on Exhibit A.
2. On June 23, 2017 (the "Petition Date"), Circulatory Centers of Pennsylvania, Inc. (the "Debtor") filed a voluntary Petition for Relief under Chapter 11 of the Bankruptcy Code.
3. Since the Petition Date, the Debtor has continued to operate its business at the Premises.

4. As of the date of this filing, the Debtor has not made any of the post-Petition rent payments pursuant to the Lease.

5. The delinquent post-Petition rent payments amount to \$21,053.20, the Debtor having only made one (1) rent payment since the case was filed six (6) months ago.

6. Movant's counsel demanded payment by letters dated October 4, 2017 and November 15, 2017. However, only one (1) payment was made on November 20, 2017 in the amount of \$3,924.31.

7. Section 365(d)(3) of the Bankruptcy Code provides, in relevant part, that the Debtor shall timely pay all the obligations arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected.

8. Congress' intent under §365(d)(3) was to ensure that landlords do not involuntarily subsidize or finance a debtor's post-Petition business operations.

9. Debtor is required to pay post-Petition rent until the Lease is rejected.

10. Movant requests allowance of the post-Petition rent obligation as a Chapter 11 administrative expense pursuant to Section § 503(b) of the Code.

11. The Debtor's estate has benefited from the possession, control and use of the Premises post-Petition.

WHEREFORE, Movant respectfully requests the entry of an order ordering the Debtor to pay the post-Petition rent owed to Movant, in full, within five (5) days; and, in default of the payment thereof, that judgment be entered in favor of the Movant and against the Debtor to be docketed in the United States District Court's Docket Index; and, that the Movant have such other and further relief as is just and proper.

Respectfully submitted,

KNOX McLAUGHLIN GORNALL &
SENNETT, P.C.
Attorneys for Movant

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